

SENATE BILL 3153
By Atchley

AN ACT to amend Tennessee Code Annotated, Title 50, Chapter 7,
relative to information concerning employees.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 50, Chapter 7, is amended by adding Sections 2 through 8 of this act as a new part:

SECTION 2. The following terms have the following meanings, unless the context requires otherwise:

- (1) "Business day" means a day on which state offices are open for regular business.
- (2) "Commissioner" means the commissioner of employment security or the commissioner's duly authorized representative.
- (3) "Department" means the department of employment security.
- (4) "Directory of new hires" means an automated directory of information, supplied by employers on each newly hired or re-hired service provider, which is maintained by the department of human services.
- (5) "Employer" has the meaning given such term in § 50-7-206.
- (6) "IV-D Agency" means the agency designated pursuant to Title IV, Part D of the Social Security Act to provide services to children and families to establish and enforce child support obligations. In Tennessee, the department of human services is the IV-D agency.
- (7) "Interactive voice system or unit" means a telephonic reporting system established by the department for use by employers for the purpose of accepting and processing new hire and re-hire information.
- (8) "Re-hired" means the reinstatement of a service provider after a lapse in pay.

(9) "Service provider" means any employee or any individual engaged by an employer to provide services for compensation.

SECTION 3. (a) Effective August 1, 1996, all employers shall be required to report in a new hire report the information required in subsection (e) on each newly hired or re-hired service provider.

(b) The new hire report shall be made by employers in the manner and according to the methods prescribed by the commissioner. The commissioner shall, however, have the authority to conform the information required, the manner, and the methods for the provision of such information, to meet the intent of future changes in federal law.

(c) The department shall have an interactive voice system which shall be used by employers to report the information required in subsection (e) for new hires and re-hires.

(d) Within five (5) days of the date each newly hired or re-hired service provider actually commences performing services for the employer, the employer shall report such service provider's employment by placing a telephone call to the interactive voice unit, or in conformance with a method approved by the commissioner.

(e) The employer shall report the following information in subdivisions (1)-(4) to the department by complying with the instructions of the interactive voice unit or by the method approved by the commissioner:

- (1) The employer's identification number;
- (2) The employer's telephone number where the employer can be contacted to obtain additional information regarding service providers;
- (3) The service provider's social security number; and
- (4) The date the service provider actually commenced performing services for the employer.

(f) Upon verbal or written request, the employer shall provide the home address and home telephone number of any newly hired or re-hired or former service provider to the department or to the department of human services.

SECTION 4. (a) Within two (2) business days of receipt of new hire information, or sooner as may be required by federal regulations, the department will transfer such information as is obtained pursuant to Section 3 to the department of human services.

SECTION 5. The commissioner of human services shall make available information collected pursuant to this part to state or local agencies or their contractors, or agents in this state or their counterparts in any other state or territory who determine financial or medical assistance under Titles IV or XVI of the Social Security Act, or as the Social Security Act may be amended to provide any block grants to states for the provision of such assistance; the unemployment compensation program under section 3304 of the Internal Revenue Code of 1954; the food stamp program under the Food Stamp of 1977, or as it may amended to provide any block grants to states for the provision of such assistance; to any state program operated under a plan approved under Titles I, X, and XIV of the Social Security Act; any agencies administering the worker's compensation program of a state or territory; and to the Title IV-D agency in this state, its local offices and its contractors, whether public or private, and the Title IV-D agency's counterparts in other states, their local offices and their contractors, whether public or private, for use in locating absent parents, and for use in establishing, enforcing and modifying child support orders.

SECTION 6. (a) If, after prior notification by the department of human services of failure to make the necessary reports required by this part, any employer fails or refuses to comply with the requirements of this part shall be subject to a civil penalty of \$20.00 for each service provider who is not reported.

(b) Any employer and service provider who conspire to not supply the report required by this part or who conspire to supply a false or incomplete report shall each be subject to a civil penalty of \$400.00.

(c) Such penalties shall be assessed by the commissioner of human services after written notice which provides ten (10) days to file a written request for appeal.

(d) If an appeal is timely filed, the employer or service provider shall be entitled to an administrative hearing on the issue of the assessment.

(e) Failure to timely appeal the assessment of the civil penalty shall be final and conclusive of the correctness of the assessment.

(f) Any amount found owing shall be due and payable not later than fifteen (15) days after the mailing date of the determination.

(g)(1) Failure to pay an assessment shall result in a lien against the real or personal property of the employer or the service provider in favor of the department of human services and shall be enforced by original attachment issued by the court in the county where the employer is located or where the service provider resides by any court having jurisdiction of the monetary amounts assessed.

(2) The employer and service provider against whom the assessment is enforced shall be liable for all costs of the proceedings and attorneys fees for private attorneys contracted to enforce the assessment or the cost of the department of human services staff attorney time or the time of any of its Title IV-D contractors used in the enforcement of the assessment.

SECTION 7. This part shall only be implemented to the extent that appropriate arrangements are made with the department for reimbursement by the state or local Title IV-D agency for administrative costs associated with the operation of the new hire directory, excluding the costs to the department for the administration of the unemployment compensation program.

SECTION 8. The department and the department of human services shall have authority to promulgate rules pursuant to §§ 4-5-201 et seq. which it determines are necessary for the implementation of this part.

SECTION 9. Tennessee Code Annotated, Section 50-7-701(a)(1), is amended by adding the following language after the words “public employees in the performance of their public duties” and before the punctuation and words “, in any manner” in the fourth sentence of subdivision (1):

and the department of human services, its local Title IV-D agencies, and agents who provide child support services pursuant to a written contract which provides for the confidentiality of all information shared pursuant to this part

SECTION 10. For purposes of promulgating rules and regulations and for purposes of implementing Section 9, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect August 1, 1996, the public welfare requiring it.

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